

Ordinance NO. 6471:

**An Ordinance Concerning Stormwater Erosion and
Sediment Control**

ORDINANCE NO. 6471

AN ORDINANCE CONCERNING STORMWATER EROSION AND SEDIMENT CONTROL

CITY OF KOKOMO, INDIANA

SECTION I. INTRODUCTION / PURPOSE

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment in the City of Kokomo, Indiana. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Kokomo, Indiana.

SECTION II. DEFINITIONS

1. *BMP – Best Management Practice:* Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.
2. *Clearing:* Any activity that removes the vegetative surface cover.
3. *Construction Activity:* Land disturbing activities associated with the construction of infrastructure or structures. The term "construction activity" does not include routine ditch or road maintenance or minor landscaping projects.
4. *Construction Plan:* An ordered collection of drawings, narratives, data and documents assembled for review, approval, authorization, and establishment of guidelines for the initiation, management, and completion of construction activities at a project site regulated by this ordinance. A storm water pollution prevention plan (SWP3) is a part of the construction plan.
5. *Construction Project Site:* The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

6. Construction Site Access: A stabilized stone surface at all points of construction related ingress/egress from a project site planned and installed in accordance with specifications from an approved reference manual, and maintained throughout the period of land disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.
7. Drainage Way: Any channel that conveys surface storm water runoff.
8. Department: Reference to the Indiana Department of Environmental Management (IDEM)
9. Developer: A project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lot(s) in a subdivision or larger common plan of development or sale.
10. Director: The chief executive officer of IDEM.
11. Erosion Control: A measure that prevents erosion.
12. Erosion and Sediment Control System: Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.
13. Final Stabilization: The establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current plan.
14. Grading: Excavation or fill of material, including the resulting conditions thereof.
15. Individual Building Lot: A single parcel of land in a multi-parcel development
16. Land Disturbing Activity: Any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
17. Measurable Storm Event: A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half (1/2) inch of rainfall.
18. MS4 - Municipal Separate Storm Sewer System: A system of storm water conveyances either owned or operated or regulated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.
19. MS4 Area: Within this ordinance, the corporate limits of the City of Kokomo under an NPDES Permit regulated by 327 IAC 15-13.

20. MS4 Operator: The person locally responsible for development, implementation, or enforcement of the Storm Water Quality Management Plan (SWQMP) for the City of Kokomo as regulated under 327 IAC 15-13.
21. Notice of Plan Approval (NPA): A notification from the MS4 Operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 Operator. The project site owner must insert the NPA with the Notice of Intent sent to the Director of IDEM at least forty-eight (48) hours prior to initiating land disturbing activities at the construction project site.
22. NPDES: The National Pollutant Discharge Elimination System, a program administered by IDEM to reduce or eliminate the pollutant loadings into public waters.
23. Peak Discharge: The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or design storm.
24. Perimeter Control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
25. Permanent Stabilization: The establishment, at a uniform minimum of seventy percent (70%) across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.
26. Phasing of Construction: Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.
27. Pollution Prevention Plan: A set of plans prepared by or under the direction of a licensed professional engineer or Certified Professional in Storm Water Quality (CPSWQ) indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.
28. Runoff: An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.
29. Sediment: Solid material, both organic and mineral, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.
30. Sedimentation: The settling and accumulation of unconsolidated sediment carried by storm water runoff.
31. Sediment Control: Measures that prevent eroded sediment from leaving the site.
32. Site: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

33. *Site Development Permit*: A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.
34. *Start of Construction*: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
35. *Storm Water Pollution Prevention Plan (SWP3)*: A plan developed to minimize the impact of storm water pollutants resulting from construction and post-construction activities.
36. *Storm Water Quality Measure*: A practice or combination of practices to control or minimize pollutants associated with storm water runoff.
37. *Temporary Stabilization*: The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of seventy percent (70%) across the disturbed areas of a project site.
38. *Tracking*: The movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.
39. *Watercourse*: Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated within the City of Kokomo.
40. *Waterway*: A channel that directs surface runoff to a watercourse or to the public storm drainage system.

SECTION III. PERMITS

- A. No responsible party may commence a land disturbing construction activity subject to this ordinance without first receiving prior approval of a site development permit.
- B. The Pollution Prevention Plan submitted to the MS4 Operator or designated representative shall include all documents and information required within 327 IAC 15-5 and 327 IAC 15-5-6.5.
- C. No developer shall be granted a site development permit without the approval of a Stormwater Pollution Prevention Plan by the City of Kokomo MS4 Operator, or designated representative for land-disturbing activity that:

1. Would disturb and/or require the uncovering of one (1) or more acres of land. The following standards have been set forth in 327 IAC 15-5-2 to calculate exact lot disturbance.
 - a. For a single-family residential project site where lots are 0.5 acre or more, 0.5 acre of land must be used as the expected lot disturbance.
 - b. For a single-family residential project site where lots are less than 0.5 acre, the total lot must be calculated as the expected lot disturbance.
 - c. All other types of projects, such as industrial and commercial sites, where lots are 1 acre or greater in size, a minimum 1.0 acre of land disturbance must be calculated as the expected lot disturbance.
 - d. All other types of projects, such as industrial and commercial sites, where lots are less than 1 acre in size, the total lot must be calculated as the expected lot disturbance.
 2. In the opinion of the MS4 Operator, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- D. For an individual lot where land disturbance is less than one acre, and the lot lies within an existing permitted site, the individual lot operator shall be required to complete a Declaration of Responsibility for Erosion and Sediment Control for a Small Residential Lot prior to receipt of an Improvement Location Permit. This declaration assigns responsibility for conformance to the Construction Plan as required in 327 IAC 15-5-7.5 to the individual building lot developer.
- E. No site development permit is required for the following activities:
1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 2. Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- F. Each site development permit application shall bear the name(s) and address(es) of the developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm. The developer or his authorized agent shall sign the application.

- G. Applicable fees may be assessed by the City of Kokomo MS4 Operator, and/or the designated representative, for Stormwater Pollution Prevention Plan reviews and inspections, which shall be included with the plan submittal.

SECTION IV. REVIEW AND APPROVAL

- A. The MS4 Operator, or designated representative, will review each application for a site development permit to determine its conformance with the provisions of this ordinance. Within twenty-eight (28) days after receiving an application, the MS4 Operator or designated representative shall approve, approve with conditions, or disapprove the application. Possible actions are further defined as:
1. *Approve*: the permit application is found to be completely consistent with the requirement within this ordinance, therefore, the MS4 Operator shall issue a Notice of Plan Approval (NPA),
 2. *Approve with conditions*: the permit application is generally consistent with the requirements within this ordinance, but specific minor modifications are required to meet all of the applicable requirements. Therefore, the MS4 Operator shall issue the permit subject to these written conditions along with a Conditional Notice of Plan Approval (CNPA); or
 3. *Disapprove*: the permit application does not meet the requirements of this ordinance and requires modifications that would result in significant changes to the Construction Plan. Therefore, the MS4 Operator shall disapprove the application indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B. Failure of the MS4 Operator or designated representative to act on an original or revised application within twenty-eight (28) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the MS4 Operator.
- C. The Developer must include the Notice of Plan Approval (NPA) or Conditional Notice of Plan Approval (CNPA) as verification of plan approval with the Notice of Intent (NOI) sent to the Director of IDEM in accordance with 327 IAC 15-5-5 or 327 IAC 15-5-6 at least forty-eight (48) hours prior to land-disturbing activities.
- D. The developer shall be required to submit a copy of the NOI to the MS4 Operator The permit shall be valid until:
1. The permit is terminated under Section VII.
 2. The permit is transferred under Section VI (D).
 3. The permit is revoked under Section VI (A)2.

SECTION V. INSPECTION

- A. The permittee shall maintain a copy of the approved Stormwater Pollution Prevention Plan on the construction site.
- B. Every active site having a Stormwater Pollution Prevention Plan should be inspected by the MS4 Operator, or designated representative, for compliance with the plan.
- C. Inspectors shall prepare written reports after every inspection.
- D. Inspectors shall notify the on-site personnel or the developer in writing when violations are being observed, describing items to address and actions to be taken.
- E. It shall be a condition of every site development permit that the MS4 Operator, or designated inspection representative, has the right to enter the construction project site periodically to inspect for compliance with the site development permit and this ordinance.

SECTION VI. ENFORCEMENT

A. Violations

In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to prosperity or improvements in the neighborhood, the MS4 Operator may issue a:

- 1) Written Warning indicating actions deemed contrary to the permit which are required to be corrected and brought into compliance within 48 hours, or
- 2) Stop-Work Order; Revocation of Permit in writing to any persons engaged in the doing or causing of such work to be done, and all persons shall forthwith stop such work until authorized by the MS4 Operator to proceed with the work.

B. Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$2,500 for each offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provision of this ordinance shall be required to bear the expense of such restoration.

C. Appeals

Upon receipt of a written violation resulting in penalties against a site development permit, the Developer may, within thirty (30) days of receipt of such violation, file a written appeal to the City of Kokomo Board of Public Works and Safety for review of the penalties.

- 1) The Board shall complete its review within sixty (60) days of receipt of said request for appeal. The Board's determination on the appeal shall be in writing and set forth in detail the reason for its decision.
- 2) In evaluating the appeal, the Board shall be bound by the standards and review criteria contained or referenced herein.
- 3) All determinations of the Board arising out of this section shall be final.

D. Transfer of Permit

Prior to termination of the permit, if all or part of the construction site transfers from one MS4 area to another through annexation or other means, the site development permit, bond, and enforcement authority shall transfer through a Notice of Transfer between the two MS4 entities. This shall not indemnify the permit holder from any pending enforcement action.

SECTION VII. TERMINATION

A. Upon completion of all construction activities associated with the site development permit, the applicant shall submit a Notice of Termination (NOT) letter to the MS4 Operator. Termination of Permit will be issued by the MS4 Operator only if the following conditions are met:

- a. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
- b. All temporary erosion and sediment control measures have been removed.
- c. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
- d. The applicant may submit a Notice of Termination (NOT) letter to obtain early release from compliance with this rule if the following conditions are met:
- e. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.
- f. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the Notice of Termination (NOT) letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

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- g. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
- h. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
- i. All permanent storm water quality measures have been implemented and are operational.

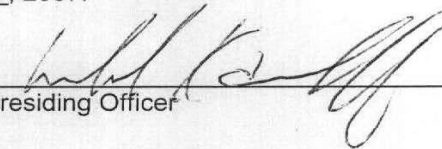
SECTION VII. SEPARABILITY

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION XVI. ADOPTION OF ORDINANCE

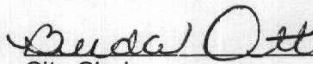
This Ordinance shall be effective from and after its passage by the Common Council of the City of Kokomo, Indiana, approval by the Mayor, IDEM review, and advertisement as required by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, THIS 9th Day of April, 2007.



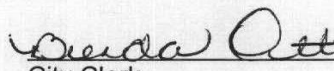
Presiding Officer

ATTEST:



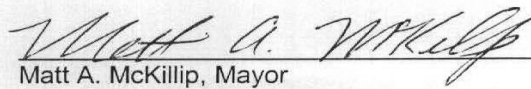
City Clerk

PRESENTED by me to the Mayor of the City of Kokomo, Indiana, this 10th day of April, 2007, at 8:00A.m.



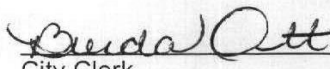
City Clerk

APPROVED by me as Mayor of the City of Kokomo, Indiana, this 11 day of April, 2007, at 9:10A.m.



Matt A. McKillip, Mayor
City of Kokomo, Indiana

ATTEST:



City Clerk

Ordinance NO. 6472:

An Ordinance Concerning Illicit Discharge Control

ORDINANCE NO. 6472

AN ORDINANCE CONCERNING ILLICIT DISCHARGE CONTROL

CITY OF KOKOMO, INDIANA

SECTION I. INTRODUCTION / PURPOSE

The City of Kokomo, in its capacity as an MS4 operator, is required by 327 IAC 15-13-14 (c) to adopt an ordinance to prohibit illicit discharges into MS4 conveyances, and to establish appropriate enforcement procedures and actions.

Therefore the purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens and environment of the City of Kokomo, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of any illicit discharge into the municipal separate storm sewer system (MS4) within the City of Kokomo, Indiana- in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are:

- 1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- 2) To prohibit Illicit Connections and Discharges into the municipal separate storm sewer system.
- 3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

This regulation shall be known and cited as the City of Kokomo Separate Storm Sewer System (MS4) Illicit Discharge Ordinance.

SECTION II. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION III. DEFINITIONS

For the purposes of this ordinance, the following shall mean:

- 1) *Authorized Enforcement Agency*: Employees or designees of the MS4 Operator designated to enforce this ordinance.

- 2) Authorized Personnel: The City of Kokomo MS4 Operator, or any employees, or designees of the said MS4 Operator- designated to inspect, monitor, and/or enforce this ordinance.
- 3) Board: The City of Kokomo Board of Public Works and Safety.
- 4) BMP – Best Management Practices: Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 5) Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. ' 1251 et seq.), and any subsequent amendments thereto.
- 6) Clearing: Any activity that removes the vegetative surface cover.
- 7) Construction Activity: Land disturbing activities associated with the construction of infrastructure or structures.
- 8) Construction Plan: An ordered collection of drawings, narratives, data and documents assembled for review, approval, authorization, and establishment of guidelines for the imitation, management, and completion of construction activities at a project site regulated by this ordinance. A storm water pollution prevention plan is a part of the construction plan.
- 9) Construction Project Site: The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.
- 10) Construction Site Access: A stabilized stone surface at all points of construction related egress from a project site planned and installed in accordance with specification from an approved reference manual, and maintained throughout the period of land disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.
- 11) Drainage Way: Any channel that conveys surface storm water runoff.
- 12) Developer: A project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lot(s) in a subdivision or larger common plan of development or sale.
- 13) Erosion Control: A measure that prevents erosion.

- 14) Pollution Prevention Plan : A set of plans prepared by or under the direction of a licensed professional engineer or Certified Professional in Storm Water Quality (CPSWQ) indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.
- 15) Erosion and Sediment Control System: Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.
- 16) Final Stabilization: The establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current plan.
- 17) Grading: Excavation or fill of material, including the resulting conditions thereof.
- 18) Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- 19) Illicit Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section V of this ordinance.
- 20) Illicit Connection: An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited- to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 21) Individual Building Lot: A single parcel of land in a multi-parcel development.
- 22) Land Disturbing Activity: Any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
- 23) Measurable Storm Event: A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half (1/2) inch of rainfall.
- 24) MS4 - Municipal Separate Storm Sewer System: A system of storm water conveyances including but not limited to any roads with drainage systems, municipal streets, gutters,

curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures- either owned, operated, or regulated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.

- 25) MS4 Area: Within this ordinance, the corporate limits of the City of Kokomo under an NPDES Permit regulated by 327 IAC 15-13.
- 26) MS4 Operator: The person locally responsible for development, implementation, or enforcement of the Storm Water Quality Management Plan (SWQMP) for the City of Kokomo as regulated under 327 IAC 15-13.
- 27) Notice of Plan Approval (NPA): A notification from the MS4 Operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 Operator. The project site owner must insert the NPA with the Notice of Intent sent to the Director of IDEM at least forty-eight (48) hours prior to initiating land disturbing activities at the construction project site.
- 28) NPDES: The National Pollutant Discharge Elimination System, a program administered by IDEM to reduce or eliminate the pollutant loadings into public waters.
- 29) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC ' 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- 30) Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
- 31) Peak Discharge: The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or design storm.
- 32) Perimeter Control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
- 33) Permanent Stabilization: The establishment, at a uniform minimum of seventy percent (70%) across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.
- 34) Phasing of Construction: Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.
- 35) Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-

hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

- 36) Runoff: An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.
- 37) Responsible Party: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law as the owner, or acting as the owner's agent.
- 38) Sediment: Solid material, both organic and mineral, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.
- 39) Sedimentation: The settling and accumulation of unconsolidated sediment carried by storm water runoff.
- 40) Sediment Control: Measures that prevent eroded sediment from leaving the site.
- 41) Site: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.
- 42) Site Development Permit: A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.
- 43) Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
- 44) Storm Water Pollution Prevention Plan: A plan developed to minimize the impact of storm water pollutants resulting from construction and post-construction activities, identify sources of pollution or contamination at a site, and describe the Best Management Practices to be implemented by a person or business to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters.
- 45) Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 46) Stormwater Quality Measure: A practice or combination of practices to control or minimize pollutants associated with storm water runoff.

- 47) Temporary Stabilization: The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of seventy percent (70%) across the disturbed areas of a project site.
- 48) Tracking: The movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.
- 49) Wastewater: Any water, or other liquid mixed with water, other than uncontaminated stormwater, discharged from a site or facility.
- 50) Watercourse: Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated within the City of Kokomo.
- 51) Waters of the State: As defined in Indiana state code IC 13-11-2-265.
- 52) Waterway: A channel that directs surface runoff to a watercourse or to the public storm drainage system.

SECTION IV. APPLICABILITY

This ordinance shall apply to all water entering the MS4 - Municipal Separate Storm Sewer System generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION V. AUTHORITY

The City of Kokomo and the City MS4 Operator shall administer, implement, and enforce the provisions of this ordinance under authority granted by Indiana Code 36-1-4 & 6; 36-7-4; 36-8-2; 32-30-6; and all acts supplemental and amendatory thereto. Any powers granted or duties imposed upon the authorized enforcement agency, may be delegated in writing by the City MS4 Operator- to persons or entities acting in the beneficial interest of or in the employ of the City of Kokomo MS4. The requirements and/or provisions of this ordinance do not pre-empt or limit more stringent stormwater management requirements, and/or regulatory powers, of any other lawful regulatory governing body.

SECTION VI. DISCHARGE PROHIBITIONS

1). PROHIBITION OF ILLEGAL DISCHARGES:

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants (or waters containing any pollutants) that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this ordinance: non-chlorinated water line flushing or other potable water sources, landscape irrigation or lawn watering, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is considered an allowable discharge.

(d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system. Proof of compliance with said permit may be required in a form acceptable to the City of Kokomo MS4 Operator prior to the allowing of discharges to the MS4.

2). PROHIBITION OF ILLICIT CONNECTIONS:

(a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION VII. SUSPENSION OF MS4 ACCESS

1). DETECTION OF ILLICIT DISCHARGE SUSPENSION:

Any business, facility, or person discharging to the MS4 in violation of this ordinance- may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person shall be considered in violation of this ordinance, if they reinstate MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Kokomo MS4.

2). EMERGENCY SUSPENSION:

The City of Kokomo MS4 may, without prior notice, suspend MS4 discharge access to a business, facility, or person when such suspension is necessary to stop an actual or threatened illicit discharge which may present imminent and substantial danger to the health and welfare of citizens, the environment, the MS4, or Waters of the State of Indiana. If the violator fails to comply with a suspension order issued during an emergency, the City of Kokomo MS4 may take such steps as deemed necessary to stop the violator's discharge into the MS4 conveyance system.

SECTION VIII. INSPECTION & MONITORING OF DISCHARGES

1). APPLICABILITY:

This section applies to all facilities that have storm water discharges, including those with construction activity.

2). ACCESS TO FACILITIES:

- a). The City of Kokomo MS4 shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- b). Facility operators shall allow the City of Kokomo MS4 ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- c). The City of Kokomo MS4 shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Kokomo MS4 Operator to conduct monitoring and/or sampling of the facility's storm water discharge.
- d). The City of Kokomo MS4 has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- e). Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Kokomo MS4 and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- f). Unreasonable delays in allowing the City of Kokomo MS4 access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of Kokomo MS4 Operator, or designated representative, reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

g). If the City of Kokomo MS4 Operator, or designated representative, has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Kokomo MS4 may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION IX. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

Any activity, operation, or facility which may cause or contribute to the pollution or contamination of the City of Kokomo MS4 conveyance system shall incorporate technical standards and design methods specified in the City of Kokomo Stormwater Quality Management Plan and/or from a reference manual approved by the City Engineer. The owner, operator, and/or responsible party of any facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 conveyance system through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

SECTION X. WATERCOURSE PROTECTION

Every person owning property, or such person's lessee, through which any MS4 regulated storm water conveyance, including but not limited to any natural and human-made watercourse or altered drainage channels passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION X1. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and

mailed to the City of Kokomo MS4 Operator, or designated representative, within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION XII. NOTICE OF VIOLATION

1). CONTENTS OF NOTICE:

Should the City of Kokomo MS4 find that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the MS4 Operator may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That all violating discharges, practices, or operations shall be corrected and brought into compliance within 48 hours;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

2). TRANSFER OF PROPERTY WITHIN MS4s:

The transfer of a property found in violation of this ordinance from one MS4 entity, into another MS4 entity- shall not indemnify the permit holder from any pending enforcement actions.

SECTION XIII. ENFORCEMENT

1). ABATEMENT:

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the City of Kokomo Board of Public Works and Safety upholding the decision of the City of Kokomo MS4, then representatives or designees of the said MS4 shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City of Kokomo MS4 or designated contractor to enter upon the premises for the purposes set forth above.

- a). Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

2). LIEN:

If the amount due is not paid within a timely manner as determined by the decision of the City of Kokomo Board of Public Works and Safety or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

3). INJUNCTIVE RELIEF:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City of Kokomo may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

5). COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Kokomo may impose upon a violator- alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

6). FINES:

Any person that has violated, or continues to remain uncooperative to, the terms of this ordinance shall be considered in violation thereof. Each day during which any violation of any of the provisions of this ordinance are committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$2,500 for each offense. In addition to any penalty authorized by this section- any person, partnership or corporation convicted of violating any of the provision of this ordinance shall be required to bear the expense of restoration. The City of Kokomo may also recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses

SECTION XIV. APPEALS

1). NOTICE OF VIOLATION APPEAL:

Any business, facility, and/or person receiving a Notice of Violation may appeal the determination of the City of Kokomo MS4. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the City of Kokomo Board of Public Works and Safety, or their designee, shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the City of Kokomo Board of Public Works and Safety, or their designee, shall be final.

426 2). ENFORCEMENT APPEAL:

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428 Should the City of Kokomo Board of Public Works and Safety uphold the Notice of
429 Violation, and enforcement penalties be enacted upon a business, facility, person, the
430 responsible party may, within ten (10) days of receipt of such violation, file a
431 written appeal to the City of Kokomo Board of Public Works and Safety for review
432 of the penalties.

433

434 a). The Board shall complete its review within thirty (30) days of receipt of
435 said request for appeal. The Board's determination on the appeal shall be in writing
436 and set forth in detail the reason for its decision.

437

438 b). In evaluating the appeal, the Board shall be bound by the standards and
439 review criteria contained or referenced herein.

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441 c). Should the decision of the Board uphold the amount of enforcement costs, then the
442 property owner shall be responsible to pay said costs within thirty (30) days of the
443 final ruling.

444

445 d). All determinations of the Board arising out of this section shall be final.

446

447 SECTION XV. REMEDIES NOT EXCLUSIVE

448 The remedies listed in this ordinance are not exclusive of any other remedies available under
449 any applicable federal, state or local law and it is within the discretion of the authorized
450 enforcement agency to seek cumulative remedies.

451

452 SECTION XVI. ADOPTION OF ORDINANCE

453 This Ordinance shall be effective from and after its passage by the Common Council of the
454 City of Kokomo, Indiana, approval by the Mayor, IDEM review, and advertisement as
455 required by law.

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458 ADOPTED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA,
459 THIS 9th Day of April, 2007.

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ATTEST:

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Mereda Ott
City Clerk

[Signature]
Presiding Officer

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PRESENTED by me to the Mayor of the City of Kokomo, Indiana, this 10th day of
April, 2007, at 8:00 A..m.

Brenda Ott
City Clerk

APPROVED by me as Mayor of the City of Kokomo, Indiana, this 11 day of
April, 2007, at 9:11 A..m.

Matt A. McKillip
Matt A. McKillip, Mayor
City of Kokomo, Indiana

ATTEST:

Brenda Ott
City Clerk

Ordinance NO. 6473:

**An Ordinance Concerning Post Construction
Stormwater Management**

ORDINANCE NO. 6473

AN ORDINANCE CONCERNING POST CONSTRUCTION STORMWATER MANAGEMENT

CITY OF KOKOMO, INDIANA

SECTION I. INTRODUCTION / PURPOSE:

The purpose of this ordinance is to establish minimum post construction stormwater management requirements, and also to protect the health, safety, and general welfare of the public within this jurisdiction through the regulation of storm water discharges to the municipal separate storm sewer system (MS4) as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in compliance with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

1. To regulate, and reduce, the contribution of pollutants to MS4 conveyances from post construction stormwater discharges;
2. To reduce and/or minimize the total annual surface water runoff rate and volume entering into the MS4 conveyance system through post construction stormwater management controls;
3. To require permanent post construction stormwater runoff controls be included as part of new development, and retrofit existing development where practicable- to improve overall water quality within the MS4 conveyance system;
4. To establish provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater best management practices to ensure that they continue to function as designed, are maintained, and do not threaten public safety;
5. To establish legal authority to carry out all inspection, surveillance and monitoring procedures as necessary to ensure compliance with this ordinance; and
6. To facilitate compliance with state and federal standards and permits by owners of construction sites, developments and permanent best management practices (BMPs) within the MS4 jurisdictional limits of the City of Kokomo.

SECTION II. SEVERABILITY:

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment,

or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION III. DEFINITIONS:

For the purposes of this ordinance, the following words and phrases shall have the meaning set forth in this section:

- 1) Authorized Enforcement Agency: Employees or designees of the MS4 Operator designated to enforce this ordinance.
- 2) Authorized Personnel: The City of Kokomo MS4 Operator, or any employees, or designees of the said MS4 Operator- designated to inspect, monitor, and/or enforce this ordinance.
- 3) Average Annual Rainfall: A typical calendar year of precipitation, excluding snowfalls.
- 4) Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping measures, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include structural and non-structural treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, and drainage from raw materials storage.
- 5) Board: The City of Kokomo Board of Public Works and Safety.
- 6) Combined Sewer System: A sewer system which carries both stormwater runoff and sanitary sewage within the same conveyance.
- 7) Construction Activity: Construction activity may include any clearing, construction, demolition, dewatering, digging, drainage installation, dredging, excavation, filling, grading, grubbing, paving, stripping, removal of vegetation, and transporting of soil.
- 8) Construction Site: Any location where construction activity occurs.
- 9) Contractor: Any person performing or managing construction work at a construction site, including, but not limited to, any construction manager, general contractor or subcontractor, and any person engaged in any one or more of the following: earthwork, pipework, paving, building, plumbing, mechanical, electrical, landscaping or material supply.
- 10) Clearing: Any activity that removes the vegetative surface cover.
- 11) City: City of Kokomo, Indiana.

- 12) Design Storm: A hypothetical rainfall event characterized by specific duration, temporal distribution, rainfall intensity, return frequency, and total depth or quantity of rainfall.
- 13) Development: The conversion of existing agricultural, fallow, or wooded lands to a commercial, industrial, municipal, residential, institutional, or roadway land usage.
- 14) Disturbed Area: That area of the land's surface disturbed by any work or activity upon the property by grading; excavating; stockpiling; filling; clearing; vegetation removal; removal or deposition of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.
- 15) Earthwork: The disturbance of soil on a site associated with clearing, grading, or excavation activities.
- 16) Erosion: The detachment and movement of soil particles by water, wind, ice or gravity.
- 17) Erosion Control: Measures that prevent soil erosion to the maximum extent practicable.
- 18) Final Stabilization: When all land disturbing activities at the construction site are completed; and a uniform perennial vegetative cover, or employment of equivalent permanent stabilization measures, have been established with a density of at least 70% for all areas unpaved or not covered by structures;
- 19) Financial Guarantee: A maintenance bond, performance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Kokomo Board of Public Works and Safety by the responsible party, to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.
- 20) Grading: Leveling of excavated or fill material, including the resulting conditions thereof.
- 21) Impervious Surface: Any material or area that releases all, or a large portion of the precipitation that falls upon it as runoff.
- 22) Infiltration: The entry of precipitation or runoff into or through the soil.
- 23) Infiltration System: A device or practice designed to specifically encourage infiltration, such as basins, rainwater gardens, stormwater swales, etc.
- 24) Maintenance Agreement: A legal document that provides for long-term maintenance of stormwater management practices.
- 25) Municipal Separate Storm Sewer System (MS4): Publicly-owned facilities by which storm water is collected and/or conveyed, including any roads or municipal streets with drainage systems, catch basins, inlets, gutters, piped storm drains, pumping facilities, detention and retention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures within the MS4 area.

- 26) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by the EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.
- 27) Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
- 28) Operator: The individual who has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties. It is anticipated that at different phases of a construction project, different types of parties will satisfy the definition of 'operator' and the pertinent portions of any applicable permit will be transferred as the roles change.
- 29) Owner: The person who owns a facility, development, part of a facility, or land.
- 30) Pervious Surface: Any surface area that absorbs part of the precipitation that falls upon it, and releases a smaller portion as runoff which may include: grassed lawns, grassed channels, gardens, wooded areas, pervious pavement, etc.
- 31) Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.
- 32) Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.
- 33) Post-Construction Status: Following the completion of land disturbing activity and final site stabilization site, after the construction phase has been completed.
- 34) Pre-Development Condition: The extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land use prior to development activity was managed in an environmentally sound manner.
- 35) Redevelopment: Any construction, alteration or improvement performed on a previously developed site.
- 36) Responsible Party: Means any association, cooperative, corporation, firm, individual, limited liability company, organization, partnership, or other entity recognized by law holding fee title to a property.

- 37) Sediment: Soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.
- 38) Sediment Control: Measures that prevent eroded sediment from leaving the site.
- 39) Site: The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
- 40) Spill: A release of solid or liquid material, which may cause pollution of any MS4 conveyance, or any waters of the State of Indiana.
- 41) Stabilization: The use of practices that prevent exposed soil from eroding.
- 42) Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 43) Stormwater Management Plan (SWMP): A document which describes the Best Management Practices and activities to be implemented by a person during the construction activities, which identifies sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters.
- 44) Stormwater Pollution Prevention Plan: A plan that indicates the specific measures and sequencing to be used for controlling stormwater runoff and sediment/erosion control on a development site during and after construction activity.
- 45) Subdivision Development: Includes activities associated with the platting of any parcel of land into lots and all construction activity taking place thereon.
- 46) Technical Standard: An approved document that specifies the design, predicted performance, operation and maintenance, and specifications for a material, device, or method.
- 47) Utility Agency/Contractor: Private utility companies, public utility departments, or other utility providers contractors working for such private utility companies, or public entity utility departments, or other utility providers engaged in the construction or maintenance of utility lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.
- 48) Wastewater: Any water, or other liquid mixed with water, other than uncontaminated stormwater, discharged from a site or facility.
- 49) Watercourse: Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated within the City of Kokomo.
- 50) Waters of the State: As defined in Indiana state code IC 13-11-2-265.

- 51) Waterway: A channel that directs surface runoff to a watercourse or to the public storm drainage system.

SECTION IV. AUTHORITY:

The City of Kokomo and the City MS4 Operator shall administer, implement, and enforce the provisions of this ordinance under authority granted by Indiana Code 36-1-4 & 6; 36-7-4; 36-8-2; 32-30-6; and all acts supplemental and amendatory thereto. Any powers granted or duties imposed upon the authorized enforcement agency, may be delegated in writing by the City MS4 Operator- to persons or entities acting in the beneficial interest of or in the employ of the City of Kokomo MS4. The requirements and/or provisions of this ordinance do not pre-empt or limit more stringent stormwater management requirements, and/or regulatory powers, of any other lawful regulatory governing body.

SECTION V. REQUIREMENTS:

Any person who undertakes or causes to be undertaken any land development subject to this ordinance- shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from construction and post construction activities are controlled so as to minimize pollution of MS4 receiving waters.

1) PLAN REQUIREMENTS & APPROVAL:

Any land-disturbing activity, which is subject to the terms of this ordinance, shall include all documents and information required within 327 IAC 15-5, and 327 IAC15-5-6.5 as a part of the Stormwater Pollution Prevention Plan. The Stormwater Pollution Prevention Plan shall be reviewed and approved by the Kokomo MS4 Operator, or their designated representative, prior to any construction as detailed in the Construction Site Ordinance. The post construction Stormwater Pollution Prevention Plan component shall contain the following:

- a). A description of potential pollutants and their sources associated with the proposed land use;
- b). A sequence describing stormwater quality measure implementation;
- c). A description of proposed post construction stormwater quality measures;
- d). Location, dimensions, specifications, and construction details of each stormwater quality measure;
- e). A description of maintenance guidelines for post construction stormwater quality measures to facilitate their proper long term function.

2) EXEMPTIONS:

The following activities are exempt from this ordinance.

- a). Single family residential strip developments consisting of four lots or less;
- b). Additions or modifications to existing single-family or duplex residential structures which disturb less than 1 acre;
- c). Agricultural farm activities associated with cultivating and harvesting, and installation of conservation practices;
- d). Forest harvesting activities.
- e). Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

3) DESIGN CRITERIA, STANDARDS , AND SPECIFICATIONS:

All development that meets the requirements of this ordinance must address post construction stormwater runoff quality, and shall incorporate technical standards and design methods specified in the City of Kokomo Stormwater Manual, and/or from a reference manual approved by the City Engineer. These will be maintained and periodically updated as needed by the City of Kokomo MS4, and may include and/or incorporate standards from the IDNR Department of Soil Conservation *Indiana Handbook for Erosion Control in Developing Areas*, and the USDA Natural Resources Conservation Service (NRCS) *Field Office Technical Guide*.

- a). All site designs shall utilize accepted stormwater best management practices to control peak flow rates of stormwater discharges associated with specified design storms, and allow treatment for water quality purposes.
- b). Where practicable, sites shall preserve buffer strips and riparian zones, minimize land disturbance, reduce surface imperviousness, minimize directly connected impervious areas, maximize open space, direct growth away from sensitive areas and toward areas that can support it without compromising water quality, promote storage and infiltration, in any combination as appropriate to reduce the impact of pollutants in stormwater runoff on receiving waters.
- c). Stormwater discharges into sensitive areas (i.e. well head protection zones, recreational waters, water supply reservoirs) may be subject to additional performance criteria.

- d). Concentrated stormwater discharges leaving a permitted site shall not result in an increased flood hazard, erosion, or other adverse impacts to downstream property or public safety.

4) MAINTENANCE AGREEMENT:

An agreement shall be made to provide for the maintenance of post construction stormwater practices beyond the duration of the permit.

- a). The maintenance agreement provision shall be included in the subdivision covenants which then will be approved by the city in conjunction with final plat approval, and recorded with the Records Office. As part of the covenant, a schedule shall be developed by the owner with the City's approval for when and how often maintenance will occur to ensure proper function of the stormwater management facility.
- b). As a part of the maintenance agreement, an access easement shall be provided for the post construction stormwater facility. The said easement will allow for periodic inspections, at reasonable times, by the City of Kokomo MS4 Operator, or any designees thereof, to ensure that the facility is maintained in proper working condition as to meet design standards any other provisions established by this ordinance.

5) INSPECTION:

- a). It shall be a condition of the site development permit that the MS4 Operator, or designated inspection representative, has the right to enter a project site to periodically inspect for compliance with this ordinance in accordance with 327 IAC 15-5-10.
- b). All post construction stormwater management facilities shall have, at the minimum, an annual inspection to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the plan, and this ordinance.
- c). Results of all site inspections shall be made available to inform the owner, and/or designated responsible party (i.e. homeowners association, etc.), and will specifically indicate any corrective actions required to bring the practice into proper working order. Any maintenance needs shall be addressed in a timely manner as determined by the City MS4 Operator, and the inspection and maintenance requirements may be increased as deemed necessary to ensure proper function of the stormwater measure.

SECTION VI. NOTICE OF VIOLATION

1). CONTENTS OF NOTICE:

Should the City of Kokomo MS4 find that a responsible party has failed to comply with the post construction requirements, the terms of the maintenance agreement, or creates a situation which becomes detrimental and/or injurious to the public health, welfare, and safety which is deemed in violation of this ordinance- the City of Kokomo MS4 Operator may order compliance by written notice of violation to the responsible party. Such notice may require without limitation the following:

- (a) The performance of monitoring, analyses, and reporting;
- (b) That violating discharges, practices, or operations shall be corrected and brought into compliance within 48 hours;
- (c) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (d) Payment of a fine to cover administrative and remediation costs; and
- (e) The implementation of source control or treatment BMPs.

2) TRANSFER OF PROPERTY WITHIN MS4s:

The transfer of a property found in violation of this ordinance from one MS4 entity, into another MS4 entity- shall not indemnify the permit holder from any pending enforcement actions.

SECTION VII. ENFORCEMENT

1). ABATEMENT:

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the City of Kokomo Board of Public Works and Safety upholding the decision of the City of Kokomo MS4, then representatives or designees of the said MS4 shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City of Kokomo MS4 or designated contractor to enter upon the premises for the purposes set forth above.

- a). Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

2). LIEN:

If the amount due is not paid within a timely manner as determined by the decision of the City of Kokomo Board of Public Works and Safety or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

3). INJUNCTIVE RELIEF:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City of Kokomo may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

5). COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Kokomo may impose upon a violator- alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

6). FINES:

Any person that has violated, or continues to remain uncooperative to, the terms of this ordinance shall be considered in violation thereof. Each day during which any violation of any of the provisions of this ordinance are committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$2,500 for each offense. In addition to any penalty authorized by this section- any person, partnership or corporation convicted of violating any of the provision of this ordinance shall be required to bear the expense of restoration. The City of Kokomo may also recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION VIII. APPEALS

1). NOTICE OF VIOLATION APPEAL:

Any business, facility, and/or person receiving a written Notice of Violation may appeal the determination of the City of Kokomo MS4. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the City of Kokomo Board of Public Works and Safety, or their designee, shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the City of Kokomo Board of Public Works and Safety, or their designee, shall be final.

2). ENFORCEMENT APPEALS:

385 Should the City of Kokomo Board of Public Works and Safety uphold the Notice of
386 Violation, and enforcement penalties be enacted upon a business, facility, person, the
387 responsible party may, within ten (10) days of receipt of such violation, file a
388 written appeal to the City of Kokomo Board of Public Works and Safety for review
389 of the penalties.

- 390
- 391 a). The Board shall complete its review within thirty (30) days of receipt of
392 said request for appeal. The Board's determination on the appeal shall be
393 in writing and set forth in detail the reason for its decision.
- 394
- 395 b). In evaluating the appeal, the Board shall be bound by the standards and
396 review criteria contained or referenced herein.
- 397
- 398 c). Should the decision of the Board uphold the amount of enforcement costs,
399 then the property owner shall be responsible to pay said costs within thirty
400 (30) days of the final ruling.
- 401
- 402 d). All determinations of the Board arising out of this section shall be final.
- 403
- 404

405 **SECTION IX. ADOPTION**

406

407 This Ordinance shall be effective from and after its passage by the Common Council of the
408 City of Kokomo, Indiana, approval by the Mayor, IDEM review, and advertisement as
409 required by law.

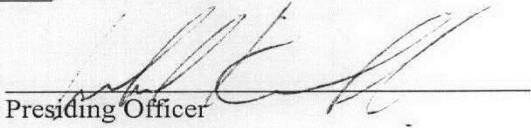
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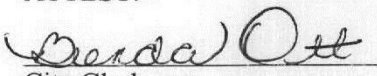
412 ADOPTED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA,
413 THIS 9th Day of April, 2007.

414

415

416 
417 Presiding Officer

418 ATTEST:

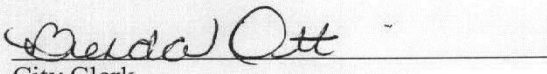
419 
420 Brenda Ott
421 City Clerk

422

423

424 PRESENTED by me to the Mayor of the City of Kokomo, Indiana, this 10th day of
425 April, 2007, at 8:00A.m.

426

427 
428 Brenda Ott
429 City Clerk

430

431 APPROVED by me as Mayor of the City of Kokomo, Indiana, this 12 day of

432 April, 2007, at 9:10A.m.
433

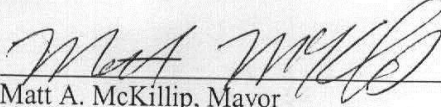
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Matt A. McKillip, Mayor
City of Kokomo, Indiana

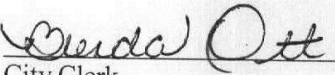
439 ATTEST:

440

441

442

443



City Clerk